

direct the manner and form in which such money or funds shall be placed in bank or invested, and the same shall at all times be subject to the order and control of the court; and if the administrator or guardian shall not, within a reasonable time to be fixed by the court, comply with the order, his administration or guardianship may be revoked.

#### Investments.

It is the privilege as well as the duty of an executor, or of any party in interest, to apply to the orphans' court for authority to invest a fund and make such disposition of it as the will requires. *Oesterla v. Galtner*, 90 Md. 44.

Where subsequent to an investment the orphans' court gives its sanction to it, the transaction is as effectual as though originally authorized, and the guardian is relieved from liability. Implied authorization of an investment. *O'Hara v. Shepherd*, 3 Md. Ch. 306.

The orphans' court has no jurisdiction to authorize a guardian to invest the ward's funds in a loan to the guardian himself upon his promissory note bearing interest. Definition of the term "investment." *Fidelity Co. v. Freud*, 115 Md. —.

The orphans' court may order an investment in stock yielding six per cent. on its face, although the same may be selling above par so as not to yield six per cent. on the amount invested. *Ex Parte Stone*, 2 Md. 294.

A verbal order of court authorizing an investment is not sufficient. *Carlysle v. Carlysle*, 10 Md. 446.

Where the court declines to direct the executor to invest, the executor is not liable for interest unless he used the money or made interest out of it. *Ex Parte Walsh*, 26 Md. 498.

This section referred to in deciding that an executrix was not liable in equity for the loss of money through an investment in gas stock. *McCoy v. Horwitz*, 62 Md. 190. See also, *Gray v. Lynch*, 8 Gill, 421.

As to investments under order of court, see also, sec. 10.

#### Generally.

The discretion vested in the orphans' court is a sound legal one, and not to be arbitrarily exercised. Notice of the order to bring money into court should always be given. *Porter v. Timanus*, 12 Md. 292. And see *Ex Parte Shipley*, 4 Md. 496; *Wampler v. Wolfinger*, 13 Md. 347.

No appeal lies from the action of the court in removing an administrator under this section. This section distinguished from sections 237 and 246. (See also, article 5, section 60.) *Macgill v. McEvoy*, 85 Md. 290; *Forney v. Shriner*, 60 Md. 421; *Bowie v. Ghiselin*, 30 Md. 558; *Porter v. Timanus*, 12 Md. 292; *Falconer v. Regeller*, 6 Md. 552; *Ex Parte Shipley*, 4 Md. 496.

Where the orphans' court has authority under this section to remove an administrator, the presumption is that the court properly exercised its power. The pendency of an appeal and of proceedings in equity held to be no excuse for a failure to deposit funds as directed by the court. *Jones v. Jones*, 41 Md. 359.

Purpose of this section. While the guardian and his bond are not responsible for money deposited under an order of court, neither is released from their general responsibility by such order. This section does not contemplate the ward's money remaining in bank unproductive. *Griffith v. Parks*, 32 Md. 7; *O'Hara v. Shepherd*, 3 Md. Ch. 306.

Where an administrator or guardian deposits money without an order of court and loss ensues, he is responsible therefor. Purpose of this section. *Bacon v. Howard*, 20 Md. 194; *Carlysle v. Carlysle*, 10 Md. 446.

An order that money be brought into court to be paid a creditor is not in conformity with this section. *Bowie v. Ghiselin*, 30 Md. 558.

This section referred to in deciding that the *situs* of personal property remains in the county where the guardian is appointed, although both guardian and ward may be non-residents. *Baldwin v. State*, 89 Md. 601; *Baldwin v. Washington County*, 85 Md. 159.

This section referred to in deciding that where a will leaves property to an infant provided he lives to attain his majority, the fund may be turned